

to enter into and to perform this Agreement.

(x) Corporate Authorization. On the Closing Date, the execution and delivery of this Agreement will have been duly authorized by SELLER's Board of Directors and Shareholders, and certified copies of those Resolutions shall be delivered to BUYER at closing. This Agreement has been duly executed and delivered to BUYER and constitutes a legal, valid and binding agreement and is enforceable in accordance with its terms.

(y) No Misleading Statements. No written information provided by SELLER to BUYER contains or will contain any untrue statement of a material fact or omits or will omit a material fact. There are no facts or circumstances known to SELLER that, either individually or in the aggregate, will adversely affect the business or condition (financial or otherwise) of the STATIONS or the assets to be acquired by BUYER.

- (z) Studio Lease. SELLER will lease its existing studio/office space to BUYER for a period not to exceed ninety (90) days from Closing at the rate of \$3,000.00 per month.

10. BUYER's Representations, Warranties, and Covenants. BUYER hereby makes the following representations, warranties, and covenants to SELLER for the purpose of inducing SELLER to enter into this Agreement.

- (a) Limited Partnership Existence. BUYER is a limited partnership, duly organized, validly existing and in good standing under the laws of the State of Colorado. Its general partner, Gardiner Broadcasting Corp., has full power under the Limited Partnership Agreement to enter into and perform this Agreement on behalf of BUYER.
- (b) General Partner Authorization. The execution and delivery of this Agreement has been duly authorized by the Board of Directors and shareholders of BUYER's general partner. This Agreement has

been duly executed and constitutes a legal, valid, and binding agreement of the general partner and BUYER and is enforceable in accordance with its terms.

- (c) Licensee Qualifications. BUYER has no knowledge of any facts which would, under present law, including the Communications Act of 1934, as amended, and the rules, regulations and practices of the FCC, disqualify BUYER as an assignee of the FCC LICENSES to be assigned hereunder, or as an owner and/or operator of the STATIONS, and BUYER will not take, or unreasonably fail to take, any action which BUYER knows or has reason to know would cause such disqualification. Should BUYER become aware of any such facts, it will promptly notify SELLER in writing thereof and use its best efforts to prevent any such disqualification. BUYER further represents and warrants that it is financially qualified to meet all terms, conditions

and undertakings contemplated by this Agreement.

- (d) No Breach. The execution and performance of this Agreement will not violate any order, rule, judgment, or decree to which BUYER is subject or breach any contract, agreement, or other commitment to which BUYER is a party or by which BUYER is bound.
- (e) Litigation. There is no action, suit, investigation or other proceeding pending or threatened which may adversely affect BUYER's ability to perform in accordance with the terms of this Agreement, and BUYER is not aware of any facts which could reasonably result in any such proceeding.
- (f) Assumption of Leases, Contracts and Other Agreements. BUYER agrees to assume those liabilities pertaining to the leases, contracts and other agreements specified in Schedule C attached hereto.

- (g) Utilities. BUYER will pay all separately metered utilities used by BUYER in the studio/office building leased from SELLER and will repair any damage caused to the roof of that building by BUYER's removal of existing antennas.

11. Conditions Precedent to Obligations of BUYER. The performance of the obligations of BUYER hereunder is subject, at the election of BUYER, to each of the following conditions precedent:

- (a) Representations and Warranties. Each of SELLER's representations and warranties contained in this Agreement or in any document or certificate delivered pursuant hereto shall be true in all material respects at and as of the Closing Date as though each such representation or warranty was made at and as of such time, except with respect to such changes as are contemplated or permitted by this Agreement.
- (b) No Adverse Change. Between the date hereof and the Closing Date, there shall

not have been any material adverse change in the property, assets, condition (financial or otherwise) or business of the STATIONS.

- (c) Litigation. Except for matters affecting the broadcasting industry generally, and as may have been disclosed to BUYER in Schedule E hereto, no litigation, action, suit, judgment, proceeding or investigation shall be pending or outstanding before, and no order, decree or judgment shall have been rendered by, any forum, court, or governmental body, department or agency of any kind, which would reasonably result in any material adverse change in the business prospects or condition of STATIONS or their assets, which would materially and adversely affect any of the real or personal assets used in connection with the STATIONS' operations, or which has the stated purpose or the probable effect of enjoining or preventing the consummation of this Agreement or the transactions

contemplated hereby, or which questions the validity of any action taken or to be taken pursuant to or in connection with this Agreement.

- (d) Compliance with Covenants and Agreements. SELLER shall have substantially performed and complied with all covenants, agreements and obligations required by this Agreement to be performed or complied with by it prior to or at the Closing Date.
- (e) Licenses or Construction Permits. On the Closing Date, SELLER shall be the holder of valid FCC LICENSES in good standing or other FCC authorizations required for the operation of the STATIONS. No proceedings shall be pending or threatened by or before the FCC which may result in the revocation, cancellation, suspension or modification of any such LICENSES, unless specifically agreed to by BUYER.

- (f) Contracts. To the extent that the contracts, agreements or other obligations to be assumed by the BUYER require the consent of the parties thereto to the assignment to BUYER, SELLER shall obtain such consents without penalty to BUYER.
- (g) Use of FM Tower Site. BUYER shall have obtained a lease for the FM tower site on terms acceptable to BUYER.
- (h) Use of AM Tower Site. BUYER shall have the right to use the current AM tower site without cost or obligation until such time as a new site acceptable to BUYER is secured and final FCC approval is obtained for such site. SELLER shall have assigned to BUYER its rights in the Lease and Option to Purchase dated May 1, 1988 between SELLER and Jack P. DeBoer regarding location, coverage, FCC approval and other matters related to the AM tower, on the same terms and conditions that pertain to SELLER. In the event that the existing contract between SELLER and Jack P. DeBoer is terminated or expires, SELLER will seek a substitute purchaser for the land on the same terms and conditions as to provisions for the AM Antenna. BUYER shall have a first option to buy at fair market value.

(i) Consent of the COMMISSION. The COMMISSION shall have given its consent to the assignment of the FCC LICENSES in accordance with the terms and conditions of this Agreement, without any condition materially varying the Agreement.

(j) Delivery of Closing Documents. SELLER shall have delivered to BUYER on the Closing Date the closing documents required to be delivered pursuant to Section 16 hereof.

12. Conditions Precedent to Obligations of SELLER.

The performance of the obligations of SELLER hereunder is subject, at the election of SELLER, to the following conditions precedent:

(a) Payment by BUYER. All payments hereunder which are due and payable by BUYER on the Closing Date shall have been paid in accordance with the terms of this Agreement.

(b) Representations and Warranties. Each of BUYER's representations and warranties contained in this Agreement or in any

certificate or document delivered pursuant hereto shall be true in all material respects at and as of the Closing Date as though each such representation and warranty was made as of such time, except with respect to such changes as are contemplated or permitted by this Agreement.

- (c) Consent of the COMMISSION. The COMMISSION shall have given its consent to the assignment of the FCC LICENSES contemplated herein in accordance with the terms and conditions of this Agreement, without any condition materially varying the Agreement.

13. Application for COMMISSION Consent. Within seven (7) days from the date hereof, SELLER and BUYER shall join in an application to be filed with the COMMISSION requesting its written consent to the assignment of the FCC LICENSES to BUYER as contemplated herein. Both BUYER and SELLER will be responsible for completing their respective sections of the assignment application in a timely manner. Each of the parties hereto shall diligently take or cooperate in the taking of all steps that are necessary and appropriate to expedite the prosecution and

favorable consideration of such FCC application. All FCC filing fees shall be divided equally between SELLER and BUYER.

14. Time for COMMISSION Consent. If the COMMISSION action granting the assignment application referred to in Section 13 hereof has not both occurred and become a Final Order within six (6) months after the assignment application is filed, either of the parties hereto may terminate this Agreement without penalty upon ten (10) days' written notice to the other, provided the party giving such notice of termination shall not be in default under any provision of this Agreement.

15. Failure of Broadcast Transmission. If regular broadcast transmissions by either of the STATIONS in the normal and usual manner are interrupted or discontinued for more than twelve (12) hours in a single occurrence, or if either of the STATIONS is operated at less than ninety (90%) percent of its licensed operating or effective radiated power, as the case may be, SELLER shall give prompt written notice thereof to BUYER. If SELLER cannot restore normal licensed operating or effective radiated power within ten (10) days (with the Closing Date to be extended if necessary), or if there are five (5) or more such events prior to the Closing Date, each lasting more than twelve (12) hours, BUYER shall have the right, upon written notice to SELLER, to terminate this Agreement forthwith without any further obligation hereunder.

16. Closing Documents to be Delivered by SELLER. On the Closing Date, SELLER shall deliver to BUYER:

- (a) An assignment transferring all of the interests of SELLER in and to the FCC LICENSES and all other licenses, permits, authorizations issued by any other regulatory bodies which are used or useful in the operation of the STATIONS;
- (b) A bill of sale conveying to BUYER all of the fixed and tangible personal assets to be acquired by BUYER in a form usual and customary in the State of Colorado and reasonably satisfactory to BUYER's counsel;
- (c) One or more assignments, together with all required consents, assigning to BUYER all of the leases, contracts, and other agreements to be assigned to BUYER hereunder;
- (d) The STATIONS' files, records and logs referred to in Section 1(e) hereof;

- (e) An assignment of SELLER's accounts receivable pursuant to Section 1(c);
- (f) All books and records relating to the STATIONS including, without limitation, all customer lists and accounts receivable records;
- (g) An assignment conveying the intangible assets to be assigned to BUYER;
- (h) The Non-Compete Agreement described in Section 6;
- (i) The Resolutions described in Section 9(x);
- (j) Such other assignments, bills of sale or instruments of conveyance and certificates as reasonably may be requested by BUYER to consummate this Agreement and the transactions contemplated thereby; and
- (k) Opinion of Counsel. An opinion or opinions, dated the Closing Date, of counsel to the SELLER in such form as is acceptable to BUYER stating that:

- (A) To the best of such counsel's knowledge, after due inquiry, SELLER is in compliance in all material respects with the Communications Act of 1934, as amended, and with the rules, regulations and procedures of the FCC. SELLER has obtained all FCC authorizations needed to carry all signals being carried by the STATIONS and all FCC authorizations needed to utilize the frequencies on which these signals are carried; has filed all FCC annual reports and holds valid FCC licenses to operate the STATIONS and any associated auxiliary facilities;
- (B) Except with respect to general rule makings and similar matters relating generally to the radio broadcast industry, there is no legal action or governmental proceeding pending, or, to such counsel's best knowledge after due

inquiry, any investigation pending or proceeding threatened by the FCC, or in any court with jurisdiction, for the purpose of modifying, revoking, terminating, suspending, cancelling or reforming any of the SELLER's FCC LICENSES to be assigned hereunder or which might have any other adverse effect upon, or cause disruption to, the operations of the STATIONS;

(C) SELLER has all requisite power and authority to own and operate all of the assets and to sell, assign and transfer the assets of the STATIONS free and clear of all encumbrances;

(D) SELLER is the sole owner of the purchased assets, free and clear of any and all mortgages, pledges, liens, security interests, encumbrances or other restrictions, including claims for federal, state or local sales, use, income, property or other taxes. The

instruments of conveyance and assignment executed and delivered by SELLER pursuant to the Purchase Agreement will effectively vest in BUYER the right, title and interest in and to the purchased assets as contemplated by the Purchase Agreement, free and clear of any mortgage, conditional sale agreement, security interest, lease, lien, hypothecation, pledge, encumbrance, restriction, liability, charge, claim or imperfection of title whatsoever;

- (E) The Agreement and each of the agreements constituting exhibits to the Agreement is a valid and binding agreement of the SELLER, enforceable against SELLER in accordance with its terms; the execution, delivery and performance of this Agreement by the SELLER and the consummation of the transactions contemplated thereby will not

conflict with or cause a breach or default under any of the terms or provisions of any contract, agreement, lease, license or other instrument to which the SELLER is a party or by which any of the STATIONS' assets may be effected. To counsel's knowledge, SELLER has complied in all material respects with all existing requirements of law, the FCC LICENSES, and all governmental bodies and knows of no reason or fact concerning or relating to the SELLER or its operation of the STATIONS that would have a material adverse affect on the decision of the FCC as to whether or not to approve the assignment of the FCC LICENSES; and,

- (F) To the best of such counsel's knowledge, after due inquiry, all towers relating to or used by the STATIONS are in compliance with

Part 17 of the FCC's Rules relating
to applicable requirements of the
Federal Aviation Administration.

17. Closing Documents to be Delivered by BUYER. On
the Closing Date, BUYER shall deliver to SELLER:

- (a) The purchase price and NOTE for the
assets and accounts receivables as set
forth in Sections 1 and 4 hereto; and
- (b) One or more agreements by which BUYER
assumes and agrees to perform all of the
obligations of SELLER accruing on and
after the Closing Date under the con-
tracts, leases and other agreements to
be assigned to BUYER hereunder.

18. Other Documents. The parties will also execute
such other documents and perform such other acts, before and
after closing, as may be necessary for the implementation and
consummation of this Agreement.

19. Indemnity of BUYER Against Certain Losses by
SELLER. SELLER hereby agrees to indemnify and hold harmless
BUYER and its successors and assigns, (a) for a period of two
years from closing, from and against any losses, damages and

expenses incident to SELLER's breach of representation or warranty; and (b) from and against any losses, damages and expenses which may be sustained, suffered or incurred by BUYER or its successors and assigns, including any liens, encumbrances or liabilities arising out of or by reason of the ownership or operation of the STATIONS on or prior to the Closing Date. BUYER or its successors and assigns, as the case may be, shall give SELLER prompt notice of any claims, demands, suit, proceeding or action to which the indemnification applies. At the cost and expense of SELLER, and with counsel chosen by SELLER, SELLER will defend any and all claims against such indemnified persons and will pay any judgments and decrees entered into against them or any of them relating to the ownership or operation of the STATIONS and will indemnify and hold each of them harmless therefrom.

20. Indemnity of SELLER Against Certain Losses by BUYER. BUYER and its assigns hereby agree to indemnify and hold harmless SELLER, its successors and assigns, (a) for a period of two years from closing, from and against any losses, damages and expenses incident to BUYER's breach of representation or warranty; and (b) from and against any losses, damages and expenses which may be sustained, suffered or incurred by SELLER or its successors and assigns, arising from or by reason of BUYER's operation of the STATIONS subsequent to the Closing Date. SELLER or its successors and assigns as the case may be, shall give

BUYER prompt notice of any claims, demands, suit, proceeding or action to which the indemnification applies. At the cost and expense of BUYER and with counsel chosen by BUYER, BUYER will defend any and all claims against such indemnified persons and will pay any judgments and decrees entered into against them or any of them relating to the ownership or operation of the STATIONS subsequent to the Closing Date and will indemnify and hold each of them harmless therefrom.

21. Expenses. Each party agrees to pay its own costs and expenses, including accountants, lawyers and others employed by each such party in connection with this transaction.

22. Bulk Sales. SELLER hereby warrants that it is in compliance with the Colorado Bulk Transfer Act and will indemnify and hold BUYER harmless against any loss, liability, obligation or other cost suffered by BUYER as a result of SELLER's failure to comply with such Act or any other bulk sales or fraudulent conveyance statutes.

23. Sales or Transfer Tax. Any sales or transfer tax resulting from the transactions contemplated by this Agreement shall be paid by SELLER.

24. Apportionment of Income and Expense. Subject to the transfer of accounts receivable to BUYER pursuant to Section 1(c) hereof, SELLER shall be entitled to all income

received, and shall be responsible for all expenses arising out of, the operations of the STATIONS through the close of business on the Closing Date. BUYER shall be entitled to all income received, and shall be responsible for all expenses arising out of, the operations of the STATIONS after the close of business on the Closing Date. All overlapping items of income or expense, including the following, shall be prorated between the SELLER and BUYER as of the close of business on the Closing Date (the "PRORATIONS"):

- (a) Advance payments received from advertisers prior to or on the Closing Date for services to be rendered in whole or in part after the Closing Date;
- (b) Prepaid expenses and deposits arising from payments made for goods or services prior to the close of business on the Closing Date where all or part of the goods or services have not been received or used at the close of business on the Closing Date (for example, rents paid in advance for a rental period extending beyond the Closing Date);

- (c) Liabilities, customarily accrued, if any, arising from expenses incurred but unpaid as of the close of business on the Closing Date (e.g., payroll, payroll taxes, and employee benefits, including vacation, severance pay and related expenses of STATIONS' employees who enter into BUYER's employ after closing), frequency discounts, utility services, rent, sales commissions, and business and professional services;
- (d) Personal and real property taxes and utility charges related to the STATIONS or in respect to any of the assets; and
- (e) Deposits and unearned prepayments received by SELLER in connection with any agreement assumed by BUYER.

25. Determination and Payment. PRORATIONS shall be made and paid, insofar as feasible, on the Closing Date and shall be paid by separate check and not by way of adjustment to the purchase price. As to PRORATIONS that cannot be made on the Closing Date, within sixty (60) days after the Closing Date, BUYER shall determine all such PRORATIONS and shall deliver a

statement of its determinations to SELLER, which statement shall set forth in reasonable detail the basis for such determinations, and within thirty (30) days thereafter, BUYER shall pay to SELLER or SELLER shall pay to BUYER, as the case may be, the net amount due. If SELLER does not concur with BUYER's determinations, the parties shall confer with regard to the matter and an appropriate adjustment and payment shall be made as agreed upon by the parties. If the parties are unable to resolve the matter, it shall be referred to a firm of independent certified public accountants, mutually acceptable to SELLER and BUYER, whose decision shall be final, and whose fees and expenses shall be shared equally by SELLER and BUYER.

26. Default. If this Agreement is terminated prior to Closing as the result of a default of BUYER or SELLER or the failure by BUYER or SELLER to comply with any covenant, agreement, representation, or warranty under this Agreement, the following remedies are available, in addition to any other remedies the parties may have:

- (a) In the event of a material breach by SELLER of any of its representations, warranties, covenants or agreements hereunder not cured before the Closing Date or within thirty (30) days of notice of such breach from BUYER,

whichever occurs sooner, BUYER may, at its election, either:

- (i) Terminate this Agreement and receive the return of its Earnest Money Deposit set forth in Section 5; or
 - (ii) Seek the judicial relief of specific performance, SELLER agreeing, in such event, to waive the defense that BUYER has an adequate remedy at law and to interpose no opposition as to the propriety of specific performance as a remedy.
- (b) In the event of a material breach by BUYER of any of its representations, warranties, covenants, or agreements hereunder, not cured on or before the Closing Date or within thirty (30) days of notice of such breach from SELLER, whichever occurs sooner, SELLER may, at its election, terminate this Agreement and keep the \$25,000.00 Earnest Money Deposit set forth in Section 5 as liquidated damages.

27. Risk of Loss. The risk of casualty loss or damage to any of the assets of the STATIONS to be transferred to BUYER hereunder shall be upon SELLER at all times prior to and including the Closing Date.

28. Non-Assignability. This Agreement may not be assigned or transferred by either party without the consent of the other party, which consent will not be unreasonably withheld. Such consent shall not be required, however, for transfer or assignment to an entity which controls or is controlled by such party.

29. Benefit. This Agreement shall be binding upon and shall inure to the parties hereto, their successors and assigns.

30. Survival of Representations, Warranties and Indemnifications. The covenants, representations, warranties, agreements, obligations, undertakings and indemnifications of SELLER and BUYER contained in this Agreement shall, unless otherwise specifically provided, be continuing and shall survive the delivery of property and assets to be conveyed.

31. Construction. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.